



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BY FIRST CLASS MAIL

Kelly Lawler, Treasurer
Freedom and Prosperity PAC
P.O. Box 984
Willows, CA 95988-0984

DEC 21 2012

RE: MUR 6705

Dear Ms. Lawler:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting Freedom and Prosperity PAC f/k/a John Dennis for Congress and you in your official capacity as treasurer (the "Committee") may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On January 25, 2012, the Committee was notified that it was being referred to the Commission's Office of the General Counsel for possible enforcement action under 2 U.S.C. § 437g. On December 18, 2012, the Commission found reason to believe that the Committee violated 2 U.S.C. § 434(b), a provision of the Act. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

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In the meantime, this matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. Please note that the Committee has a legal obligation to preserve all documents, records, and materials relating to this matter until notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed Designation of Counsel form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

We look forward to your response.

On behalf of the Commission,



Ellen L. Weintraub
Vice Chair

Enclosures
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Freedom and Prosperity PAC
f/k/a John Dennis for Congress
and Kelly Lawler, in her
official capacity as treasurer

MUR: 6705
(formerly RR 12L-03)

I. GENERATION OF MATTER

This matter was generated based on information ascertained by the Federal Election Commission ("Commission") in the normal course of carrying out its supervisory responsibilities, *see* 2 U.S.C. § 437g(a)(2).

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

Freedom and Prosperity PAC f/k/a John Dennis for Congress ("the Committee") is a nonconnected committee registered with the Commission. During the 2009-2010 election cycle, the Committee was known as John Dennis for Congress and was the principal campaign committee of John Dennis, a candidate for California's 8th Congressional District. After Dennis lost the 2010 general election, the Committee was converted to nonconnected committee status and renamed. The Committee filed its new Statement of Organization on February 3, 2011. Kelly Lawler is the Committee's treasurer and was the treasurer of John Dennis for Congress.

On October 21, 2010, the Committee filed its 2010 12 Day Pre-General Report that disclosed \$791,078.87 in disbursements on Line 17 (Operating Expenditures) of the Detailed Summary Page. On June 28, 2011, the Committee filed an amendment to the previously-filed 2010 12 Day Pre-General Report that disclosed total disbursements of \$897,127.48. This new amount included an additional \$106,048.61 in disbursements not shown in the original report.

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On October 13, 2011, the Commission's Reports Analysis Division ("RAD") sent the Committee a Request for Additional Information ("RFAI") seeking clarification of the increased activity on the Amended 2010 12 Day Pre-General Report. Letter from Brian Jones, Campaign Finance Analyst, Federal Election Commission, to Kelly Lawler, Treasurer, Freedom and Prosperity PAC (Oct. 13, 2011) (on file at www.fec.gov). The RFAI noted that the Amended 2010 12 Day Pre-General Report disclosed a substantial increase in the amount of disbursements from those disclosed in the original report, and requested that the Committee either amend the report or provide an explanation for the discrepancies. *Id.*

Kelly Lawler responded to the RFAI on behalf of the Committee, explaining that the increased activity resulted from technical difficulties in processing information from a vendor. *See* Form 99 filed November 19, 2011. Lawler explained that the Committee had difficulties with downloads from its fundraising vendor. She stated that the increased activity was an oversight and that the Committee has initiated a new system of processing information from the vendor.

The RAD Analyst also followed up on the RFAI with a telephone call on November 21, 2011. During the conversation, he informed Lawler that the Committee may be referred for further action by the Commission and that she could provide any additional information regarding the increased activity. The Committee filed a supplemental response stating that it initially discovered the omitted entries while reconciling the data from the fundraising vendor, that it has reviewed and revised its internal recordkeeping and reporting processes, and that it has voluntarily corrected the public record by amending the 2010 12 Day Pre-General Report. *See* Form 99 filed November 29, 2011.

1 RAD referred the Committee to the Commission's Office of the General Counsel
2 ("OGC") for failing to disclose the increased activity (hereinafter "Referral"). On January 25,
3 2012, OGC notified the Committee of the Referral in accordance with the Commission's policy
4 regarding notification in non-complaint generated matters. See 74 Fed. Reg. 38617 (August 4,
5 2009). Upon notification of the RAD Referral, Lawler provided an explanation that was similar
6 to her responses to the RFAI. See Letter from Kelly Lawler, Treasurer, Treasurer, Freedom and
7 Prosperity PAC (March 11, 2012) (hereinafter "Response"). In the Response, Lawler said that
8 the Committee has changed its data importing procedures from a quarterly basis to a monthly
9 basis, upgraded the technology it uses to collect financial information, and changed its monthly
10 reconciliation procedures. See Response at 1.

11 **B. Legal Analysis**

12 The Federal Election Campaign Act of 1971, as amended ("the Act"), requires
13 committee treasurers to file reports of receipts and disbursements in accordance with the
14 provisions of 2 U.S.C. § 434. See 2 U.S.C. § 434(a)(1) and 11 C.F.R. § 104.1(a). These reports
15 must include, *inter alia*, the total amount of disbursements. See 2 U.S.C. § 434(b)(4); 11 C.F.R.
16 § 104.3(b). Committees are also required to disclose itemized breakdowns of receipts and
17 disbursements and disclose the name and address of each person who has made any contribution
18 or received any disbursement in an aggregate amount or value in excess of \$200 within the
19 calendar year, together with the date and amount of any such contribution or disbursement. See
20 2 U.S.C. § 434(b)(2)-(6); 11 C.F.R. § 104.3(a)(1), (3), (4); 11 C.F.R. § 104.3(b)(2), (4).

21 The Committee did not comply with the Act's reporting requirements when it failed to
22 disclose \$106,048.61 in disbursements on its original 2010 12 Day Pre-General Report filed

- 1 with the Commission.¹ Therefore, the Commission finds reason to believe that Freedom and
2 Prosperity PAC f/k/a John Dennis for Congress and Kelly Lawler, in her official capacity as
3 treasurer, violated 2 U.S.C. § 434(b).

¹ The Committee filed the Amended 2010 12 Day Pre-General Report under its new name – Freedom and Prosperity PAC – even though the original report had been filed under the Committee's prior name – John Dennis for Congress. As a committee that had converted from an authorized candidate committee to a nonconnected political committee, Freedom and Prosperity PAC has an ongoing responsibility to ensure that reports filed by John Dennis for Congress complied with the Act and Commission regulations. *Cf.* Advisory Opinion 2012-06 (RickPerry.org) (requiring nonconnected committee that converted from an authorized committee to resolve general election contributions within 60-day regulatory period).

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